

Application for Search and Seizure Warrant

UNITED STATES DISTRICT COURT

for the
Western District of Washington

In the Matter of the Search of:

Miller, Junior W.

Case No. MJ20-5108

APPLICATION FOR A SEARCH WARRANT FOR BLOOD SAMPLE

I, Vitaliy A. Stepanyuk, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that a sample of blood consisting of one of more tubes or vials should be taken from the following person:

Miller, Junior W., DOB [REDACTED] 1996

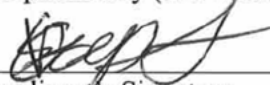
located in the Western District of Washington and that this blood sample is evidence of the following crime or crimes.

- ☒ Driving While Under the Influence in violation of RCW 46.61.502, 18 U.S.C. § 13, and 36 C.F.R § 4.23 or 38 C.F.R. § 1.218
- ☐ Physical Control of a Vehicle While Under the Influence of Alcohol or Drugs in violation of RCW 46.61.504, 18 U.S.C. § 13, and 36 C.F.R § 4.23 or 38 C.F.R. § 1.218
- ☐ Driver under Twenty-One Consuming Alcohol or Marijuana in violation of RCW 46.61.503 and 18 U.S.C. § 13
- ☐ Vehicular Homicide in violation of RCW 46.61.520 and 18 U.S.C. § 13
- ☐ Vehicular Assault in violation of RCW 46.61.524 and 18 U.S.C. § 13
- ☐ _____

This application is based on the facts set forth in the attached affidavit which is incorporated herein as if fully set forth.

Pursuant to Fed. R. Crim. P. 4.1 & 41(d)(3), this warrant is presented:

- ☒ By reliable electronic means.
- ☐ Telephonically (and recorded).



Applicant's Signature
Vitaliy A. Stepanyuk / SGT

The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit by telephone on this 9th day of May, 2020.



THE HONORABLE MARY ALICE THEILER
UNITED STATES MAGISTRATE JUDGE

1 STATE OF WASHINGTON)
 2)
 3 COUNTY OF **PIERCE**)

4 AFFIDAVIT OF VITALIY STEPANYUK

5 I, Vitaliy A. Stepanyuk, a Sergeant with Joint Base Lewis-McChord (JBLM),
 6 JBLM, Washington, having been duly sworn, state as follows:

7 AFFIANT BACKGROUND

8 1. I have served as a law enforcement officer for the past five years. My
 9 training and experience relevant to the investigation discussed below includes the
 10 following:

- 11 ☐ Basic Training at the Federal Law Enforcement Training Center
- 12 ☒ Basic Law Enforcement Training at the Department of the Army
- 13 Military Police Academy
- 14 ☒ Standardized Field Sobriety Testing
- 15 ☒ Advised Roadside Impaired Driving Enforcement Training

16 I am SGT Vitaliy A. Stepanyuk badge #406, currently assigned to the Traffic
 17 Management & Collision Investigation section. I have over 5 years of training and
 18 experience detecting, investigating, and arresting people for driving under the influence
 19 of alcohol and / or drugs. My past training includes instruction in the standardized field
 20 sobriety tests in 2016 while attending the Schofield Barracks Police Academy. I received
 21 initial training on the Intoxilyzer 8000 in 2017. In September of 2017, I also completed
 22 the Northwest University Traffic Crash Investigations course. In October of 2019, I
 23 completed a standardized field sobriety test refresher course while completing the
 24 Washington State Field Sobriety Tests and DRAEGER breath-testing course. In
 25 November of 2019, I completed a standardized field sobriety test refresher course while
 26 completing the Advanced Roadside Impaired Driving Enforcement (A.R.I.D.E.) class. I
 27 am currently certified as an operator for the breath-testing instrument in the State of
 28 Washington. I have been a traffic collision investigator and DUI enforcement Officer

AFFIDAVIT OF VITALIY STEPANYUK - 1

UNITED STATES ATTORNEY
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 SEATTLE, WASHINGTON 98101
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1 with the Joint Base Lewis-McChord Police Department since 2019. I am also trained to
 2 recognize the signs and evidence of an alcohol and / or drug related collision. Through
 3 my past training and experience, I have learned to recognize the signs of alcohol and / or
 4 drug impairment in people and to determine whether a person's ability to drive a motor
 5 vehicle safely is impaired. I also know from my past training and experience that most
 6 drugs once ingested including alcohol, will be detectable in a person's blood. I have
 7 approximately nine DUI arrests and approximately 20 DUI assists throughout my career
 8 in law enforcement.

9 2. The information presented in this affidavit is:

- 10 ☒ Based on my personal observations and interviews that I have
 11 conducted.
 12 ☒ Based on the personal observations and interviews conducted by
 13 Nathan A. Blankenship, who has been a Military Police Officer at
 14 Camp Casey, Korea and JBLM for 2 years and 8 months. I have
 15 learned that this individual has received the following relevant
 16 training:
 17 - Basic Law Enforcement Training at the Department of the Army
 18 (11 September 2017)
 19 - Drug Suppression Team (DST) training at Camp Humphreys (16
 20 November 2018)
 21 - JBLM Military Police "Dragon Fighter" Academy (05 October
 22 2019)

23 Military Police Academy

24 INTRODUCTION AND PURPOSE OF THE AFFIDAVIT

25 3. The purpose of this affidavit is to seek a search warrant to authorize me or
 26 other law enforcement officers to direct a physician, a registered nurse, a licensed
 27 practical nurse, a nursing assistant as defined in Chapter 18.88A of the Revised Code of
 28 Washington (RCW), a physician assistant as defined in chapter 18.71A of the RCW, a
 first responder as defined in chapter 18.73 of the RCW, an emergency medical technician
 as defined in chapter 18.73 of the RCW, a health care assistant as defined in chapter

1 18.135 of the RCW, or any technician trained in withdrawing blood to extract a blood
 2 sample consisting of one or more tubes or vials from Miller, Junior W. (hereafter "the
 3 Subject"). This warrant is requested for the purpose of gathering evidence of the
 4 following crime(s):

- 5 ☒ Driving While Under the Influence in violation of RCW 46.61.502, 18
 6 U.S.C. § 13, and 36 C.F.R § 4.23 or 38 C.F.R. § 1.218
- 7 ☐ Physical Control of a Vehicle While Under the Influence of Alcohol or
 8 Drugs in violation of RCW 46.61.504, 18 U.S.C. § 13, and 36 C.F.R §
 4.23 or 38 C.F.R. § 1.218
- 9 ☐ Driver under Twenty-One Consuming Alcohol or Marijuana in violation
 10 of RCW 46.61.503 and 18 U.S.C. § 13
- 11 ☐ Vehicular Homicide in violation of RCW 46.61.520 and 18 U.S.C. § 13
- 12 ☐ Vehicular Assault in violation of RCW 46.61.524 and 18 U.S.C. § 13
- 13 ☐ _____

14 4. I am seeking to present this application for a search warrant by electronic
 15 means because the natural metabolism of alcohol or drugs in the bloodstream may
 16 result in the loss of this evidence in the time it would take to present a search warrant
 17 application in a more traditional fashion.

18 SUMMARY OF PROBABLE CAUSE

19 5. As a result of my duties I am familiar with the jurisdictional boundaries of
 20 Joint Base Lewis-McChord (JBLM), Washington. The incident described below occurred
 21 within these jurisdictional boundaries, an area within the special maritime and territorial
 22 jurisdiction of the United States as defined in 18 U.S.C. § 7.

23 6. The initial contact with the Subject occurred on 09 May 2020 at
 24 approximately 14:57 at Santa Fe Ave adj. Saint Paul Ave. Military Police (MP)
 25 Blankenship was dispatched to the above location for a driver operating a blue Honda
 26 CRV, driving recklessly and speeding. Upon arrival, I made contact with the reporting
 27 party (SGT Hernandez) who pointed to a blue 2004 Honda CRV WA/BTL6533, which
 28 MP Blankenship observed driving in the street. MP Blankenship then waived down the
 above vehicle to speak with the driver. The vehicle pulled over to the side of the road and

1 MP Blankenship approached the driver and identified him by his Common Access Card
2 (CAC) as the Subject. The Subject did not have a valid driver's license because it was
3 suspended out of Tennessee.

4 7. Based on my training and experience, I believe the Subject may be under
5 the influence of intoxicants or drugs for the following reasons: During the contact, MP
6 Blankenship instantly noticed a faint odor of an alcoholic beverage emitting from the
7 vehicle and/or the Subject. When asked where he was coming from the Subject stated
8 that he was coming from the beach and was trying to locate ear pods that had been lost
9 earlier. MP Blankenship observed the Subject with repetitive speech, a flushed face,
10 blood shot and droopy eyes. MP Blankenship asked the Subject to turn off his vehicle and
11 hand him the keys and the Subject handed MP Blankenship his phone instead. MP
12 Blankenship then instructed the Subject to step out of the vehicle. While the Subject was
13 exiting the vehicle, he was unable to balance on his own and utilized his door, leaving it
14 open. MP Blankenship asked the Subject if he would be willing to conduct Field Sobriety
15 Tests (FSTs) and he said yes. MP Blankenship took the Subject to a safe location to
16 conduct FSTs. The location was clear of debris and leveled. There was no reason why the
17 Subject should not have been able to walk in a straight line or balance on one leg due to
18 the location. MP Blankenship instructed the Subject on how to perform the Walk and
19 Turn from his FST card. During the first 9 steps, the Subject missed heel to toe on step 4,
20 stepped off the line on steps 4 and 9, and took a total of 10 steps instead of 9 like he was
21 instructed to do. During the turn around, the Subject hesitated (stopping) before turning
22 around to continue even though he was instructed not to stop until he had completed the
23 entire test. On the second 9 steps, the Subject stepped off the line on steps 2 and 3, and
24 took 11 steps instead of 9. MP Blankenship instructed the Subject on how to perform the
25 One Leg Stand. During the One Leg Stand test, the Subject stood on his left leg while
26 raising his right. The Subject swayed while balancing and utilized his arms for balance
27 (moving them further than 6 inches apart from his body. Additionally, the Subject did not
28 keep his foot parallel to the surface nor approximately 6 inches off the ground. Due to the

1 totality of the circumstances, MP Blankenship concluded that the Subject was under the
 2 influence of alcohol and/or drugs. MP Blankenship apprehended the Subject for DUI and
 3 transported him to the JBLM Police Station for further processing. The Subject willingly
 4 submitted to a PBT Alcotest which resulted with a BAC level of .179. MP Blankenship
 5 then escorted the Subject to the BAC room and read him his constitutional rights from the
 6 DUI Arrest Report, which the Subject understood and signed stating that he waived his
 7 rights. The Subject did not want to speak to an attorney and was read the Washington
 8 State implied consent verbatim from the DUI Arrest Report. The Subject stated that he
 9 was not willing to provide a breath sample for the Draeger Alcotest machine and did not
 10 want to voluntarily submit to a blood draw.

11 8. The Subject:

- 12 ☒ Has refused to take a breath Alcohol test on an instrument approved by
 13 the State Toxicologist or a federal agency for such breath testing.
- 14 ☐ Is being treated in a hospital, clinic, doctor's office, emergency medical
 15 vehicle, ambulance, or other similar facility, or is at a location that lacks
 16 an instrument approved by the State Toxicologist or a federal agency for
 17 performing such breath testing, and has refused to submit to a blood
 18 test.
- 19 ☐ Is incapable due to physical injury, physical incapacity, or other
 20 physical limitation of submitting to a breath alcohol test, and the
 21 defendant has refused to submit to a blood test.
- 22 ☐ Has refused to submit to a blood test at the request of the undersigned.
- 23 ☐ Was not offered an opportunity to take a breath alcohol test on an
 24 instrument approved by the State Toxicologist or a federal agency for
 25 such breath testing because:
- 26 ☐ The available instrument is currently out of order
- 27 ☐ The individual does not speak English and the implied consent
 28 warnings are not available in a language that the defendant
 understands
- ☐ _____
- ☐ Submitted to a breath test on an instrument approved by the State
 Toxicologist or a federal agency for such breath testing but the breath

1 alcohol concentration reading of xx **BAC LEVEL** is not consistent with
2 the defendant's level of impairment suggesting that the defendant is
3 under the influence of a drug.

4 9. A sample of blood extracted from the Subject if taken within a reasonable
5 period of time after he/she last operated, or was in physical control of, a motor vehicle,
6 may be tested to determine his/her current blood alcohol level and to detect the presence
7 of any drugs that may have impaired his/her ability to drive. This search warrant is being
8 requested within **4.5** hours after the Subject ceased driving or was found in physical
9 control of a motor vehicle.

10 //

11 //

12 //


CONCLUSION

10. For the reasons stated above, I request authority to direct a physician, a registered nurse, a licensed practical nurse, a nursing assistant as defined in chapter 18.88A of the RCW, a physician assistant as defined in chapter 18.71A of the RCW, a first responder as defined in chapter 18.73 of the RCW, an emergency medical technician as defined in chapter 18.73 of the RCW, a health care assistant as defined in chapter 18.135 of the RCW, or a technician trained in withdrawing blood to extract a blood sample consisting of one or more tubes or vials from Miller, Junior W., DOB [REDACTED] 1996.

11. This application for a warrant is being presented electronically pursuant to Fed. R. Crim P. 4.1 & 41(d)(3).

I certify (or declare) under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated this 09 day of May, 2020.


SGT Vitaliy A. Stepanyuk, Affiant
Collision Investigator, JBLM Police

The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit by telephone on 09 day of May, 2020.


THE HONORABLE MARY ALICE THEILER
UNITED STATES MAGISTRATE JUDGE